

David Evans
10830 Minette Drive
Cupertino, California 95014
Plaintiff in Pro Per (with a little help)

FILED

2008 AUG 12 A 8:07

*No Fee
TAKEN
NIP
(5)*

ADR

**UNITED STATES DISTRICT COURT
DISTRICT OF NORTHERN CALIFORNIA
SAN JOSE DIVISION**

RICHARD W. WIEKING
CLERK
U.S. DISTRICT COURT
OF CA. S.J.

David Evans, roommates, and on
behalf of all tenant who have been
burdened with large legal fees and denied
due process.

Plaintiffs

V.

David Hurd, Duanni Hurd,
Gary W. Sullivan, the State Superior Courts
in and for the County of Santa Clara, and
against all attorneys who hide fees

Defendants

**APPLICATION TO PROCEED
WITHOUT PREPAYMENT OF
FEES AND AFFIDAVIT**

**EX PARTE MOTIONS FOR SET
ASIDE A DEFAULT AND/OR THE
DEFAULT JUDGMENT; ORDER**

**DECLARATION OF PETITIONER
JURY DEMAND**

Evidence submitted under Rule 201

NC
CASE NUMBER:

C08 03840 PVT

I, David Evans declare that I am the petitioner in the above-entitled proceeding. That I am a U.S. Citizen and entitled to the protection under the laws of the United States.

I declare that in support of my request to proceed without prepayment of fees or costs under 28 USC §1915 I declare that I am unable to pay the costs of these proceedings at this time and that I am entitled to the relief sought in this complaint /petition /motion.

In support of this application, I claim to be in debt about \$10,000 of bills not including the \$3,341.55 that I am asking this court to set aside. I have to pay rent and other bills like child support to my ex-wife monthly. I have no assets that I can get cash from such as 401K or stocks. Also my complaint is... a removal from state court as I was a defendant who was told to pay fees or be granted a waiver for fees to turn in a response in a less than 5 days... in a lawsuit. Please read on. I believe I am entitled to Federal court jurisdiction under the removal statutes of title 28 U.S.C. Section 1443.

I, David Evans also declare I am filing this complaint and have been told I must also post in my declaration... **"Jury demanded"** to receive this request. I am filing this removal, due to the fact that the State Court has refused to accept documents and therefore denied me due process of law.

Though by the time I go to trial, I believe I can come up with the \$350 to seek justice and ask for an extension of time to pay this fee. That is of coarse if this court grants my right to trial in this action or due process of law. It would be easier for me if I were talking with a jury, because I do not know all the legal jargon that judges hear and the rest of us in the real world wonder were is this leading?

Background

I had been renting a home from David and Duanni Hurd located at 10740 Minette Dr. in Cupertino, California for over a year. We had a verbal month to month contract in place as our old contract ran out on March 1, 2008 and he wanted to raise the rent which he told me in mid-February starting March 1st that he was charging another \$100. I had told him that that was not enough time and that he had to give me a least a 30-day notice in writing before he could do that. Mr. Hurd demanded that I pay him this extra \$100. I told him I did not have the money but would pay him in mid-March when I got paid... but I felt I was coerced into this agreement as he threaten to kick me out if I did not pay him. As I was having the new rental agreement being looked at and had not signed it at that time, and therefore we were in no binding contract nor did the old contract apply that he had submitted in court documents. I did not pay him the \$100 dollars when I said, because I did not think it was fair to give in to this abuse and threats. Several days later, on March 17, 2008 the landlord served a 30-day notice to vacate the residence.

Now according to California law " California Legislature passed AB 1169 as of January 1st 2007 reinstating a landlord must provide a month-to-month periodic tenant notice requirement is now a total of 60 days..."

I sent this letter to David Hurd on April 7, 2008...

"Dear Mr. Hurd,

I was shocked to find out that you ask me to move out, I am now in the process of looking for a place and have to save up money to move out, I hope to be out of here some time in May. This is an unexpected hardship on me. I will send you a letter as soon as I have a date that I know I will be out by.

Sorry if this causes you any inconvenience,

David Evens"

At that time I had not missed one payment or was late on any payments of rent and any bill that I agreed with... and I could not afford to move in this short of time frame nor could my roommates. Knowing we could not save up enough money to secure a place and could not afford to pay the rent for April due to this 30-day kick out and believing that my verbal contract with him was void, and knowing I could not afford the cost to go to court as it could cost more to go to court even as a poor person than it does in rent... I planned on moving out as soon as possible and knowing that he has \$1,100 of deposit that I could not use to move out... and rent was \$2,200 well... the next day on April 8 though April 15, I received about 5 of these 3-day notices left under a big rock that was in front of the entry door, it was a hazard and someone could trip and get hurt. I responded to these 3-day notices with letters... like these...

David Evens
10740 Minette Dr
Cupertino, Ca 95014 - 3615

April 9, 2008

Dear Mr. Hurd,

Please use the US mail box to give me any document like this, as one of my roommate tripped over the rock that you placed these documents under. I do not turn on the porch light and we get in after dark, he has a sprained ankle and this kind of tactic and placement of the rock did not help as this is very dangerous to place a rock of this size right in front of the door that he has to step on to open the door.

This has turn into something that I wished it would not have as I have paid my bills on time and we got into a argument over \$100 rent increase, but you kick me and my roommates (as you called them unauthorized tenants, as you knew that they were here the whole time) out over this incident to the best of my knowledge and now with your threat of legal proceedings... well, I have to also talk to an attorney and see if I have recourse in this matter and that is extra time and cost to me at a time in my life when I do not need this.

This is also cost to my roommates who like me have to commit time and cost and they might have to talk to their attorneys and see if there is any coarse of action they can take, as one is away to Canada right now and I do not know when he will be back.

I do not think the court is going to like the fact that you been claiming your living here and your not, as you intended to use this as a remold and tear the whole house down and keep one wall standing to fraud the government out of money as you tried to profited from in which the market turned around on you. So you do not really want to go to court over such matters.

I am trying to get out of here as fast as possible but now I have to talk with an attorney first to see what are my options. Please do not harass my roommates or me even by phone calls, the best way to do this at this stage is though the US mail. I do not really want to go to court with this, so please respond soon.

Sincerely,

David Evens

David Evens
10740 Minette Dr
Cupertino, Ca 95014 - 3615


April 12, 2008

Dear Mr. Hurd,

I have more evidence but I want to have something to show to the jury. I ask at least that this court sign the set aside a default and/or the default judgment based on this testimony under oath and if this court thinks that this case is not just rip to bring into Federal court, that it at least remand it back into state court with a strong letter to the superior court that a higher authority is very interested in the outcome of events that have transpired and that other authorities might investigate in such practice of law, to see the amount of damage that such practice of law can underscore the validity of the system of justice. As I believe this is very common practice for attorneys. I believe a jury would see that the legal action by the client and attorney were more of an abuse of power than a justified action in which laws are base on. I will be asking the jury to take this into consideration when deciding the outcome of cost due with all the other evidence and abuse that this landlord and his attorney have done to date.

Please let me know if I owe any money to proceed in this manner, because I will have to find an Attorney(s) to help me get through all this... as I do not know the true extent of damage that attorney like Gary W. Sullivan do when they help file fraudulent documents in a court of law, I would estimate it to be in the millions, so I say ten million... but again I believe it would be fair for a jury to decide. Though I myself needed help in writing this complaint as my panic attack kicks in every time I have to think about this... Lucky for me I know someone who is willing to help out people a little who have been abused... and just wants to set the record straight.

I declare under penalty of Perjury under the laws of the United States that this declaration is true and correct to the best of my knowledge and records.

A handwritten signature in black ink, appearing to read "David Evans", is written over a horizontal line.

David Evans

Date: August 7, 2008

Case 5:08-cv-03840-JF Document 1 Filed 08/12/2008 Page 1 of 1

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF SANTA CLARA**

Downtown Courthouse – Civil Division
191 North First Street, San Jose, CA 95113
(408) 882-2100



- Self-Service Website: www.sccselfservice.org. Providing information for those representing themselves in court.
- Public Case Information Website: www.scccseinfo.org. Providing access to local cases through online search & retrieval.
- Main Website: www.sccsuperiorcourt.org. Providing access to rules, forms, fees, locations & phone numbers.

Civil Filing Rejection Letter

[
[
[] Case Number: 108cv110903
[]
[] Case Title: _____

Dear Sir/Madam:

The Document is being returned for the following reason(s):

- ☐ The Civil Case Cover Sheet adopted by Rule 3.220 is missing. Please submit the cover sheet within 10 days of this Notice or you may be subject to sanctions under California Rules of Court, Rule 2.30.
- ☐ The case number is ☐ missing, ☐ incorrect, or ☐ incomplete.
- ☐ The documents **MUST** be on adopted Judicial Council forms. ☐ Forms are obsolete.
- ☐ The document is incomplete. Please complete information where "Red" check marks are placed.
- ☐ The document is missing an original signature.
- ☒ The document requires a \$ 180.00 Filing Fee or Waiver of Fees granted by this Court.
- ☐ The document is not in compliance with Rule 2.100-2.119 as follows:
- ☐ Caption page required ☐ State Bar Number required
☐ Two-hole punch and stapled ☐ Telephone number
- ☐ Request for Dismissal is incomplete. Please provide the information requested.
- Complete: ☐ item 1a. ☐ item 1b.
☐ item 2, need consent of ☐ Cross-Complaint ☐ Intervener ☐ Complaint
- ☐ An Order of Court is required prior to filing this document.
- ☐ The case was dismissed on: _____
- ☐ The document is filed in the incorrect Court.
- ☒ Other: This motion was not reserved with the Calendar department.

Notes for Future Reference:

- ☐ To expedite your requests for Writs or Abstracts, please submit an **endorsed filed** copy of your judgment.
- ☐ Please enclose a self-addressed stamped envelope for the return of your copies.
- ☐ Please make checks payable to: Clerk Superior Court

Kiri Torre
Chief Executive Officer/Clerk

Date: 4/29/08

Clerk: G. Duarte

*The Court staff is not authorized to give you legal advice or instruct you on which legal forms to use, as this constitutes an unauthorized practice of law.
The Court recommends that you seek appropriate legal assistance.*

Exhibit 1.

SUPERIOR COURT OF CALIFORNIA COUNTY OF SANTA CLARA

Downtown Courthouse – Civil Division
191 North First Street, San Jose, CA 95113
(408) 882-2100



- **Self-Service Website:** www.sccselfservice.org. Providing information for those representing themselves in court.
- **Public Case Information Website:** www.scccseinfo.org. Providing access to local cases through online search & retrieval.
- **Main Website:** www.sccsuperiorcourt.org. Providing access to rules, forms, fees, locations & phone numbers.

Civil Filing Rejection Letter

[
[
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Case Number: 108cv110903

Case Title: _____

Dear Sir/Madam:

The Document is being returned for the following reason(s):

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- ☐ The case number is ☐ missing, ☐ incorrect, or ☐ incomplete.
- ☐ The documents **MUST** be on adopted Judicial Council forms. ☐ Forms are obsolete.
- ☐ The document is incomplete. Please complete information where "Red" check marks are placed.
- ☐ The document is missing an original signature.
- ☐ The document requires a \$ _____ Filing Fee or Waiver of Fees granted by this Court.
- ☐ The document is not in compliance with Rule 2.100-2.119 as follows:
- | | |
|---|--|
| <input type="checkbox"/> Caption page required | <input type="checkbox"/> State Bar Number required |
| <input type="checkbox"/> Two-hole punch and stapled | <input type="checkbox"/> Telephone number |
- ☐ Request for Dismissal is incomplete. Please provide the information requested.
- Complete: ☐ item 1a. ☐ item 1b.
☐ item 2, need consent of ☐ Cross-Complaint ☐ Intervener ☐ Complaint
- ☐ An Order of Court is required prior to filing this document.
- ☐ The case was dismissed on: _____
- ☐ The document is filed in the incorrect Court.
- ☒ Other: Unable to file. A default has been entered against you. Please contact the Self-Help Center for further assistance.

Notes for Future Reference:

- ☐ To expedite your requests for Writs or Abstracts, please submit an **endorsed filed** copy of your judgment.
- ☐ Please enclose a self-addressed stamped envelope for the return of your copies.
- ☐ Please make checks payable to: Clerk Superior Court

Date: 7/2/08

David H. Yamasaki, Chief Executive Officer

Clerk, by _____

A. FLUKESOLA
Deputy

The Court staff is not authorized to give you legal advice or instruct you on which legal forms to use, as this constitutes an unauthorized practice of law.
The Court recommends that you seek appropriate legal assistance.

TELEPHONE NO.: (408) 971-1340 FAX NO. (Optional): E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): Plaintiff		CASE NUMBER 108 CV 110903
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CLARA STREET ADDRESS: 191 NORTH FIRST STREET MAILING ADDRESS: CITY AND ZIP CODE: SAN JOSE, CALIFORNIA 95113 BRANCH NAME:		
PLAINTIFF/PETITIONER: DAVID HURD, ET AL. DEFENDANT/RESPONDENT: DAVID EVANS		
REQUEST FOR (Application) <input checked="" type="checkbox"/> Entry of Default <input checked="" type="checkbox"/> Clerk's Judgment <input type="checkbox"/> Court Judgment		

1. TO THE CLERK: On the complaint or cross-complaint filed

a. on (date): APRIL 21, 2008

b. by (name): DAVID HURD, DUANNI HURD

c. ☒ Enter default of defendant (names):

DAVID EVANS

d. ☐ I request a court judgment under Code of Civil Procedure sections 585(b), 585(c), 989, etc., against defendant (names):

(Testimony required. Apply to the clerk for a hearing date, unless the court will enter a judgment on an affidavit under Code Civ. Proc., § 585(d).)

e. ☒ Enter clerk's judgment(1) ☒ for restitution of the premises only and issue a writ of execution on the judgment. Code of Civil Procedure section 1174(c) does not apply. (Code Civ. Proc., § 1169.)☐ Include in the judgment all tenants, subtenants, named claimants, and other occupants of the premises. The Prejudgment Claim of Right to Possession was served in compliance with Code of Civil Procedure section 415.46.(2) ☐ under Code of Civil Procedure section 585(a). (Complete the declaration under Code Civ. Proc., § 585.5 on the reverse (item 5).)(3) ☐ for default previously entered on (date):

2. Judgment to be entered.

	Amount	Credits acknowledged	Balance
a. Demand of complaint	\$ -0-	\$	\$ -0-
b. Statement of damages *	-0-		-0-
(1) Special	\$ -0-	\$	\$ -0-
(2) General	\$ -0-	\$	\$ -0-
c. Interest	\$ -0-	\$	\$ -0-
d. Costs (see reverse)	\$ -0-	\$	\$ -0-
e. Attorney fees	\$ -0-	\$	\$ -0-
f. TOTALS	\$ -0-	\$	\$ -0-

g. Daily damages were demanded in complaint at the rate of: \$

per day beginning (date):

(* Personal injury or wrongful death actions; Code Civ. Proc., § 425.11.)

3. ☒ (Check if filed in an unlawful detainer case) Legal document assistant or unlawful detainer assistant information is on the reverse (complete item 4).

Date: APRIL 30, 2008

GARY W. SULLIVAN

(TYPE OR PRINT NAME)

(SIGNATURE OF PLAINTIFF OR ATTORNEY FOR PLAINTIFF)

(1) ☐ Default entered as requested on (date):(2) ☐ Default NOT entered as requested (state reason):FOR COURT
USE ONLY

Clerk, by _____, Deputy

Page 1 of 2

Exhibit 2

PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT:	HURD EVANS	CASE NUMBER: 108 CV 110903
--	---------------	-------------------------------

4. Legal document assistant or unlawful detainer assistant (Bus. & Prof. Code, § 6400 et seq.). A legal document assistant or unlawful detainer assistant ☐ did ☒ did not for compensation give advice or assistance with this form. (If declarant has received any help or advice for pay from a legal document assistant or unlawful detainer assistant, state):

- a. Assistant's name: c. Telephone no.:
b. Street address, city, and zip code: d. County of registration:
e. Registration no.:
f. Expires on (date):

5. ☒ Declaration under Code of Civil Procedure Section 585.5 (required for entry of default under Code Civ. Proc., § 585(a)). This action

- a. ☐ is ☒ is not on a contract or installment sale for goods or services subject to Civ. Code, § 1801 et seq. (Unruh Act).
b. ☐ is ☒ is not on a conditional sales contract subject to Civ. Code, § 2981 et seq. (Rees-Levering Motor Vehicle Sales and Finance Act).
c. ☐ is ☒ is not on an obligation for goods, services, loans, or extensions of credit subject to Code Civ. Proc., § 395(b).

6. Declaration of mailing (Code Civ. Proc., § 587). A copy of this Request for Entry of Default was

- a. ☐ not mailed to the following defendants, whose addresses are unknown to plaintiff or plaintiff's attorney (names):

- b. ☒ mailed first-class, postage prepaid, in a sealed envelope addressed to each defendant's attorney of record or, if none, to each defendant's last known address as follows:

(1) Mailed on (date):

APRIL 30, 2008

(2) To (specify names and addresses shown on the envelopes):

DAVID EVANS

10740 MINETTE DRIVE

CUPERTINO, CALIFORNIA 95014

I declare under penalty of perjury under the laws of the State of California that the foregoing items 4, 5, and 6 are true and correct.

Date: APRIL 30, 2008
GARY W. SULLIVAN

(TYPE OR PRINT NAME)

(SIGNATURE OF DECLARANT)

7. Memorandum of costs (required if money judgment requested). Costs and disbursements are as follows (Code Civ. Proc., § 1033.5):

- | | |
|--------------------------|--------|
| a. Clerk's filing fees | \$ -0- |
| b. Process server's fees | \$ -0- |
| c. Other (specify): | \$ -0- |
| d. | \$ -0- |
| e. TOTAL | \$ -0- |

- f. ☐ Costs and disbursements are waived.

9. I am the attorney, agent, or party who claims these costs. To the best of my knowledge and belief this memorandum of costs is correct and these costs were necessarily incurred in this case.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: APRIL 30, 2008
GARY W. SULLIVAN

(TYPE OR PRINT NAME)

(SIGNATURE OF DECLARANT)

8. ☒ Declaration of nonmilitary status (required for a judgment). No defendant named in item 1c of the application is in the military service so as to be entitled to the benefits of the Servicemembers Civil Relief Act (50 U.S.C. App. § 501 et seq.).

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: APRIL 30, 2008
GARY W. SULLIVAN

(TYPE OR PRINT NAME)

(SIGNATURE OF DECLARANT)

Exhibit 2

982(a)(6)

FOR COURT USE ONLY

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):

GARY W. SULLIVAN, ESQ. - SBN: 103162
 1565 THE ALAMEDA
 SAN JOSE, CALIFORNIA 95126

TELEPHONE NO.: (408) 971-1340

FAX NO. (Optional): 971-0478

E-MAIL ADDRESS (Optional):

ATTORNEY FOR (Name):

Plaintiff

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CLARA

STREET ADDRESS: 191 NORTH FIRST STREET

MAILING ADDRESS:

CITY AND ZIP CODE: SAN JOSE, CALIFORNIA 95113

BRANCH NAME:

PLAINTIFF/PETITIONER: DAVID HURD, ET AL.

DEFENDANT/RESPONDENT: DAVID EVANS

REQUEST FOR
(Application)☐ Entry of Default☐ Clerk's Judgment☒ Court Judgment

CASE NUMBER:

108 CV 110903

1. TO THE CLERK: On the complaint or cross-complaint filed

a. on (date): April 21, 2008

b. by (name): DAVID HURD, DUANNI HURD

c. ☐ Enter default of defendant (names):d. ☒ I request a court judgment under Code of Civil Procedure sections 585(b), 585(c), 989, etc., against defendant (names):
DAVID EVANS

(Testimony required. Apply to the clerk for a hearing date, unless the court will enter a judgment on an affidavit under Code Civ. Proc., § 585(d).)

e. ☐ Enter clerk's judgment(1) ☐ for restitution of the premises only and issue a writ of execution on the judgment. Code of Civil Procedure section 1174(c) does not apply. (Code Civ. Proc., § 1169.)☐ Include in the judgment all tenants, subtenants, named claimants, and other occupants of the premises. The Prejudgment Claim of Right to Possession was served in compliance with Code of Civil Procedure section 415.46.(2) ☐ under Code of Civil Procedure section 585(a). (Complete the declaration under Code Civ. Proc., § 585.5 on the reverse (item 5).)(3) ☐ for default previously entered on (date):

2. Judgment to be entered.

a. Demand of complaint Amount

b. Statement of damages \$ 2,566.55

(1) Special

(2) General

c. Interest

d. Costs (see reverse)

e. Attorney fees

f. TOTALS

\$

\$

\$

\$

\$

\$

\$

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Credits acknowledged

Balance

\$ 2,566.55

\$

\$

\$

\$

\$ 400.00

\$

\$ 375.00

\$ 3,341.55

\$

\$

\$

\$

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\$

g. Daily damages were demanded in complaint at the rate of: \$ 73.33
(* Personal injury or wrongful death actions; Code Civ. Proc., § 425.11.)

per day beginning (date): April 19, 2008

3. ☐ (Check if filed in an unlawful detainer case) Legal document assistant or unlawful detainer assistant information is on the reverse (complete item 4).

Date: June 23, 2008

GARY W. SULLIVAN

(TYPE OR PRINT NAME)

(1) ☐ Default entered as requested on (date):(2) ☐ Default NOT entered as requested (state reason):

SIGNATURE OF PLAINTIFF OR ATTORNEY FOR PLAINTIFF

Clerk, by _____, Deputy

FOR COURT
USE ONLYREQUEST FOR ENTRY OF DEFAULT
(Application to Enter Default)

Exhibit 3

DEFENDANT/RESPONDENT:

EVANS

108 CV 110903

4. Legal document assistant or unlawful detainer assistant (Bus. & Prof. Code, § 6400 et seq.). A legal document assistant or unlawful detainer assistant ☐ did ☒ did not for compensation give advice or assistance with this form. (If declarant has received any help or advice for pay from a legal document assistant or unlawful detainer assistant, state):

a. Assistant's name:
b. Street address, city, and zip code:

c. Telephone no.:
d. County of registration:
e. Registration no.:
f. Expires on (date):

5. ☒ Declaration under Code of Civil Procedure Section 585.5 (required for entry of default under Code Civ. Proc., § 585(a))
This action

a. ☐ is ☒ is not on a contract or installment sale for goods or services subject to Civ. Code, § 1801 et seq. (Unruh Act).
b. ☐ is ☒ is not on a conditional sales contract subject to Civ. Code, § 2981 et seq. (Rees-Levening Motor Vehicle Sales and Finance Act).
c. ☐ is ☒ is not on an obligation for goods, services, loans, or extensions of credit subject to Code Civ. Proc., § 395(b)

6. Declaration of mailing (Code Civ. Proc., § 587). A copy of this Request for Entry of Default was

a. ☐ not mailed to the following defendants, whose addresses are unknown to plaintiff or plaintiff's attorney (names):

b. ☒ mailed first-class, postage prepaid, in a sealed envelope addressed to each defendant's attorney of record or, if none, to each defendant's last known address as follows:

(1) Mailed on (date):

JUNE 23, 2008

(2) To (specify names and addresses shown on the envelopes):

DAVID EVANS

10830 MINETTE DRIVE

CUPERTINO, CALIFORNIA 95014

I declare under penalty of perjury under the laws of the State of California that the foregoing items 4, 5, and 6 are true and correct

Date

JUNE 23, 2008

GARY W. SULLIVAN

(TYPE OR PRINT NAME)

(SIGNATURE OF DECLARANT)

7. Memorandum of costs (required if money judgment requested) Costs and disbursements are as follows (Code Civ. Proc. § 1033.5):

a. Clerk's filing fees	\$	195.00	
b. Process server's fees	\$	65.00	
c. Other (specify)	\$	125.00	Sheriff Fee
d.	\$	15.00	Writ of Possession
e. TOTAL	\$	400.00	
f. <input type="checkbox"/> Costs and disbursements are waived			

9. I am the attorney, agent, or party who claims these costs. To the best of my knowledge and belief this memorandum of costs is correct and these costs were necessarily incurred in this case.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct

Date

June 23, 2008

GARY W. SULLIVAN

(TYPE OR PRINT NAME)

(SIGNATURE OF DECLARANT)

8. ☒ Declaration of nonmilitary status (required for a judgment). No defendant named in item 1c of the application is in the military service so as to be entitled to the benefits of the Servicemembers Civil Relief Act (50 U.S.C. App. § 501 et seq.).

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date

June 23, 2008

GARY W. SULLIVAN

(TYPE OR PRINT NAME)

(SIGNATURE OF DECLARANT)

Exhibit 3

Attorney at Law
1565 The Alameda
San Jose, California 95126
(408) 971-1340
FAX (408) 971-0478

July 25, 2008

David and Duani Hurd
10830 Minette Drive
Cupertino, California 95014

Re: Hurd vs. Evans

Dear David and Duani:


I have confirmed David Evans' employment with the City of Palo Alto. If you want me to proceed with the wage garnishment the attorney's fees would be 30% of any amounts recovered; if there is no recovery, there is no fee. Costs incurred for processing the wage garnishment are \$220.00, which represents a process server fee of \$175.00, writ of execution \$15.00, and a sheriff's fee of \$30.00. These fees need to be advanced by you to start on the wage garnishment.

The above fee covers attorney's fees for collection on the Judgment only. If there are any fees incurred by opposing motions to set aside a default and/or default judgment, and/or any other motion other than a claim of exemption in regards to the wage garnishment, these services would be billed on an hourly rate of \$250.00 per hour. In the event that is necessary, I would request that the court add any attorney fees to the existing Judgment.

If you are in agreement with the above, please evidence your agreement thereto by signing below and return this letter to my office along with a check in the amount of \$220.00.

Do not hesitate to contact me if you have any questions or comments.

Very truly yours,


GARY W. SULLIVAN

SO AGREED:

DAVID HURD

DUANI HERD

Exhibit 4

such a law against such notices. Which he followed through on as I was served a complaint on April 23, 2008 and I responded by US mail to the court and the Attorney for the David and Duanni Hurd... a Gary W. Sullivan with this document...

Superior Court of California

Plaintiff David Hurd, Dunanni Hurd)	
)	
V.	)	Motion of extension on 5 day
	)	(Calendar days) for written
Defendant David Evans	)	response to documents

Case Number 108CV110903

I David Evens declare I need more time than five days to file a written response to this lawsuit. I request a two week extension as I do not believe this 5 "Calendar days" is enough time for me to file papers in response to this suit.

I was served this on Wednesday night about 9:00 pm and do not think I can reasonably respond to these "legal documents" in this short span of time.

David Evans

Date: April 25, 2008"

I received this document back on 5/1/8 with a form letter titled "Civil Filing Rejection Letter." There were two boxes checked one box stating a required fee of \$180 or waiver and the other box checked was... Other: This motion was not reserved with the Calendar department.

G. Duarte dated this document 4/29/08. See Exhibit 1.

As a defendant getting forced prematurely out of place of residence and the local government is rejecting a legal response is in violation of my due process rights. I believe this to be a default in the system and therefore this Class Action Federal lawsuit is necessary and the federal government has to step in and enforce penalties against the State(s) and state employees that abuse people rights, as I believe people should have the right to a reasonable extension of time to file a response to a lawsuit as we were moving out in about a week and I have no history of being evicted by force before!

I called Mr. Hurd at (408) 802-0355 on April 30, 2008 at 8:53 PM and left a message stating that I would be moving out either that weekend or the next weekend. That I was still working out the details. Early evening on the next day a Notice to Vacate was posted. We moved out on May 3 and the home was swept clean in better condition than when I moved in as I had to fix things that were

broken or not working properly with the normal ware and tear for a home the time I was there and he claimed he was tearing it down to build a new one anyways.

On May 2, 2008 I received "Request for Entry of Default" by Attorney Gary W. Sullivan. Marked as Exhibit 2, attached to this document. It was asking the clerk to sign a judgment in which stating I did not respond to the lawsuit. I responded to this request claiming this is fraud... getting a clerk to sign a judgment in which I ask for an extension of time...

Clerks refuse to accept documents than say they were no documents filed??? And I sent a copy of this motion for an extension of time to this attorney, so he knew I attempted to file a response and I informed him of the move-out, therefore any legal action to get us out would be a waist of there money and time. But I did agree to the cost at zero stated by their attorney and submit as evidence under rule 201 of the federal rules and regulations as Exhibit 2.

Superior Court of California

Plaintiff:	)	Response to Unlawful Detainer (Complaint)
	)	Request Waiver of File fees
David Hurd, Duanne Hurd	)	Notice of Address change
	)	Request for sanctions against attorney
V.	)	Stipulation of Judgment to be entered.
	)	Objection to Entry of Default,
Defendants:	)	Request to Vacate Default by clerk
)	
<u>David Evans, et al</u>)	

Case Number: 108cv110903

Defendant David Evans declares under the following:

On March 17, 2008, one of my roommates found a "30 day notice" attached to the front door. I have marked this document as "Exhibit A" as I was shock to find out I was being evicted after talking with him and agreeing with him to pay an extra \$100 a month in mid- February as he was trying to get \$2,500 for rent, though he stated he wanted this starting the month of March and I told him he needed to give me at least 30 notice days.

He states in this document to contact the utility company to make payment. As I have always paid all my bills and had no problems paying my bills in the past with him. Though I did question one December bill and called as he did not send me the information I needed and called and transferred the bill into my name so to get a more detailed account of this bill as he once told me he was claiming this as his resident for some illegal purpose as I had lived there for over a year and I found out from some people who I have been complain too, that California law states I was suppose to get a 60 day notice. I have paid all the utility bills that PG&E have sent to me and garbage bill that was sent on 3/17/08. See Exhibit B

When I move in, Plaintiff David Hurd clearly stated to me that the house was being town down and that I could put "holes in the wall" and he would not care. But this letter states, " Please prepare the property to the same move-in pre-lease conditions you found upon taking residency." Which plaintiff has done. Event though in the complaint filed on April 21, 2008 it states "Tenant has been advised that home will be torn down in 12 to 24 months.

According to the old contract that plaintiff attached as Exhibit 1, it shows that the contract is terminated on March 1, 2008. This contract clearly shows it as a revised contract without consent on defendant. In fact this is some sort of pieced together contract that I have not seen or agreed upon. Defendant believes that Plaintiff and his attorney HAVE committed fraud upon the court with this lawsuit.

.... It goes on and states the same kind of things as above...

I receive nothing from the court on this response and around June 25, 2008 I receive another "Request for Entry of Default" from the attorney Gary W. Sullivan. Marked as Exhibit 3. I respond to this document and I received this letter back in the mail from the courts with another "Civil Filing Rejection Letter" See Exhibit 1... Again the State court denied my right to due process of law and refused to entertain any response, motion or vacate judgment-claiming **Unable to file. A default has been entered against you.** A. Floresca sent this out on 7/2/08.

Again I believe this is why the US District Court must step in and stop this courthouse from abusing my rights to submit documents as I am claiming they entered a default in which no time was given to get in an argument against such a judgment.

I have not seen a signed copy of such a judgment. How can anyone appeal or respond to such a judgment? I have sent in a complaint to the State Bar against Gary W. Sullivan in this action and how they use the 30-day notice only to get a response back from the state that stating they do not think this is enough evidence to do anything about it. The reason why I am filing this class action lawsuit is that I just open up a letter that was sent by the attorney Gary W. Sullivan asking his client if he wanted to attach my wages... and he sent to my address... see Exhibit 4 as evidence

Though I always believed that the defendant should not have to be the person that brings the plaintiff to court in a lawsuit, it should be the other way around and I should be able to submit documents in my defense without a filing fee charge, as I am considered innocent until proven guilty. I like to have a trial because this action was caused by their failure to give fair notice of eviction and he had an attorney!

Now there saying I defaulted on a lawsuit in which the clerks refused what I believe a juror would say would be a reasonable response to someone who can not afford to move out in a 30-day period of time and then having to take time out and run around and asking for free legal advice. Everyone tells you about free advice... and yeah I listen to a lot of people, who know a little about law, but it seems to come down to a judge and most of the judges in the Santa Clara county courthouse have reputations... and some of them are not very good, and all judges seem to favor attorneys and cops views than they do the public view. In fact they seem to all have certain favorite attorneys that come before them... way to cozy to get a fair trials, what I hear and see in the really life... as the defendant in the state court I have to protect my right to due process of law, and ask this court to consider hearing this case, and understand that every day people are being abused by attorney- clerks and the favoritism of attorney -judge relationships.

I bring this lawsuit to federal court and again as I want a Jury to decide on this case, and if I have to pay money to file a cross complaint, like this I will be seeking damages in which this house I rented, well... I want to include damages for the garage that leaked and the one of my roommates had had his sisters stuff who need a place to store a lot of her belongings as she was downsizing... get ruined... and there was a big fight that caused a good relationship between them to go drift apart... such things as family furniture, clothes and pictures etc... I will be calling her to the stand... as I think \$10,000 would be fair values on the kind of stuff that I saw get destroyed by the leaky roof.

I can tell that this has happen before and someone like me could not get the proper help without paying a lot of money which they could not afford and there is never a guarantee. But I am willing to hire an attorney when this case really has to call for one. Of coarse I do not want one who is charges \$250 an hour and then wants a 30% collection fee on top of all the fraud they try to submit into court documents and get away with under color of authority and color of law.

I always wondered how that worked... Attorney fees that is... This Attorney under oath has claimed to be asking for \$375 in Fees... see Exhibit 3 out of the 3,341.55 he was asking for he forgot to mention the he seeks 30% or a little over \$1,000 to garnish the wages.

If you really think about it, he is going to be asking for attorney client privilege as I am claiming that he has done this a lot of times before and all those people he has rip off are entitled to damages... Also I am claiming this is not the only attorney who practices this fraud.

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS DAVID EVANS(b) County of Residence of First Listed Plaintiff SANTA CLARA
(EXCEPT IN U.S. PLAINTIFF CASES)(c) Attorney's (Firm Name, Address, and Telephone Number) Proter
10830 MINETTE DR. Cupertino, CA 95014DEFENDANTS DAVID AURD, Duanni Hurd
GARY W. SULLIVAN, STATE SUPERIOR Courts in
California Attorneys who Hide Fees
County of Residence of First Listed Defendant SANTA CLARA
(IN U.S. PLAINTIFF CASES ONLY)NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
LAND INVOLVED**C08 03840 PVT**
Attorney (Firm Name) GARDIN
1565 THE ALAMEDA, SAN JOSE, CA 95126
(408) 971-1340

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|---------------------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input checked="" type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input checked="" type="checkbox"/> 440 Other Civil Rights	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes

V. ORIGIN (Place an "X" in One Box Only)

- ☐ 1 Original Proceeding
- ☒ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Title 28 USC Section 1443

Brief description of cause:

STATE COURT IS AND HAS DENIED DUE PROCESS REMOVE FROM STATE

VII. REQUESTED IN COMPLAINT:

☒ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

\$10,000,000

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE